

ONE HUNDRED SEVENTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
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WASHINGTON, DC 20515-6115  
Majority (202) 225-2927  
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October 26, 2022

Stephen J. Pasierb  
CEO  
The Toy Association  
1200 G Street N.W. Suite 200  
Washington, D.C. 20005

Dear Mr. Pasierb:

On September 22, Axios reported that toy manufacturers are hastily shifting their marketing dollars from traditional television outlets to social media platforms like TikTok and YouTube.<sup>1</sup> This shift reflects a larger advertising trend moving away from supporting curated content via traditional video distribution to one that is supporting user generated content on social media platforms.

As early Black Friday sales are already occurring to provide savings for Americans paying record-high inflation, we understand toy companies must be selective in how they use their marketing dollars. However, as these are companies that depend on American consumers, they must be scrupulous in how their marketing practices impact potential users of their products. Your companies market products for and to children, therefore they must be responsible for the outlets with which they choose to do business. It is essential that they recognize their content attracts children at an early age to Big Tech platforms, including ones that have alarming ties to China.

Unfortunately, the reported marketing practices that the toy industry has utilized deserves special attention due to the privacy and data security practices of its Big Tech partners, such as TikTok and YouTube. These Big Tech companies have a questionable history regarding the vast amount of user data collected.<sup>2</sup> The data collection record for both companies gets worse for children. For example, TikTok says it requires users to be at least 13 years old to use the platform, but it does not use any age verification tools when new users sign up.

For children on TikTok and YouTube, law enforcement agencies have found numerous times that both TikTok and YouTube have violated child privacy laws. In February 2019,

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<sup>1</sup> <https://www.axios.com/2022/09/22/social-media-holiday-toys-influencers-tiktok-youtube>

<sup>2</sup> <https://www.gizchina.com/2022/02/10/tiktok-and-youtube-collect-the-most-user-data-of-any-social-media-app/>

TikTok settled with the Federal Trade Commission (FTC) regarding charges that the company illegally collected personal information from children violating the Children's Online Privacy Protection Act (COPPA), which at that time the \$5.7 million in fines was the largest civil penalty ever obtained by the Commission in a children's privacy case.<sup>3</sup> Seven months later, YouTube broke the record with a payment of \$136 million to the FTC to settle charges it collected personal information from children without their parents' consent in violation of COPPA.<sup>4</sup> In one year, the two companies racked up tens of millions in fines for collecting children's personal information without parental consent. Sadly, we know these fines pale in comparison to the revenues generated by these two companies, which are in the billions of dollars.

Due to the number of American children on social media platforms and the track record of negligence by Big Tech companies in protecting our children's privacy, security, and mental health, we have several questions on how your member companies deal with companies like TikTok and YouTube during the holiday season and the vast troves of data they collect on children. Please answer the following no later than November 9, 2022:

1. Please provide a list of social media platforms with which your member companies have marketing agreements.
2. What controls have you recommended your member companies have in place for a social media platform that will carry their advertising for products that are marketed to children?
3. What controls have you recommended your member companies have in place for a social media platform that will carry their advertising for products that are targeted for children?
4. What controls have you recommended your member companies have in place for retailers that carry their products using social media platforms as a method to reach consumers for products that are targeted for children?
5. What controls have you recommended your member companies have in place for retailers that carry their products using social media platforms as a method to advertise directly to children?
6. Given media reports that TikTok and YouTube have benefited from this shift in advertising, have you advised your member companies that TikTok and YouTube both have been subject to violations of the COPPA?
  - a. When discovering past data abuses, what corrective actions have you suggested these social media companies take or what actions your member companies take when partnering with such social media companies?
  - b. Have these social media companies or your member companies accepted or declined input on how to be better stewards in this regard? Please explain.
7. Are you aware of platforms offering your member companies data analytics?
  - a. Are you aware of your member companies' agreements, and whether they include the transfer of children's data in any way, shape or form?
  - b. Have your member companies shared or sold such data to any other parties? If yes, please list the companies that have shared such data.

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<sup>3</sup> <https://www.ftc.gov/news-events/news/press-releases/2019/02/video-social-networking-app-musically-agrees-settle-ftc-allegations-it-violated-childrens-privacy>

<sup>4</sup> <https://www.ftc.gov/news-events/news/press-releases/2019/09/google-youtube-will-pay-record-170-million-alleged-violations-childrens-privacy-law>

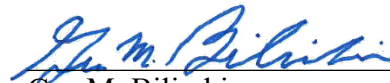
- c. Are you aware of whether the social media platform shared or sold such data generated from your member companies' marketing agreements to any other parties? If yes, please list the other parties that received such data.
- 8. TikTok in particular has presented problems beyond COPPA for also sharing data with its parent company ByteDance, which has highly questionable ties to the Chinese Communist Party (CCP).
  - a. Are you familiar with the concerns that TikTok shares American data with ByteDance, who is required by CCP law to turn over any information they have to the CCP, including the information that is provided by TikTok?
    - i. If yes, please explain what advice you have provided your member companies in their establishing a partnership with TikTok.
    - ii. If not, do you plan to?
  - b. What other entities with close ties to the CCP are you aware of your member companies being in partnership with, whether through marketing or the product supply chain?

If you have any questions, please contact Tim Kurth at the minority Committee staff at (202) 225-3641.

Sincerely,



Cathy McMorris Rodgers  
Republican Leader  
House Committee on Energy and  
Commerce



Gus M. Bilirakis  
Republican Leader  
Subcommittee on Consumer Protection  
and Commerce